IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

WP(C).No. 28301 of 2006(T)

PETITIONER:

K.J.ABRAHAM, AGED 48,
S/O.JOSEPH JOHN, MODIYATTU MANGATTU,
WATER AUTHORITY MAIN GATE,
SASTHAMANGALAM, MARUTHANKUZHY,
THIRUVANANTHAPURAM.

BY ADV. SRI.R.T.PRADEEP

RESPONDENTS:

---

1. THE SECRETARY,
CORPORATION OF THIRUVANANTHAPURAM.

2. THE OMBUDSMAN FOR LOCAL SELF GOVT.
INSTITUTIONS, REP. BY ITS SECRETARY,
THIRUVANANTHAPURAM.

3. B.SREEDHARAN NAIR,
T.C.7/1072 (1), SREE RANGANAM,
VATTIYOORKAVU -PO, THIRUVANANTHAPURAM.

4. G.KAMALA BAI, POURNAMI,
T.C.7/1072 (3)
VATTIYOORKAVU -PO, THIRUVANANTHAPURAM.

5. M.SREEDEVI AMMA,
T.C. 9/199-2, MANGALAM LANE,
SASTHAMANGALAM -PO, THIRUVANANTHAPURAM.

6. SANDHYA BAI, T.C. 7/1072(2)
VATTIYOORKAVU -0, THIRUVANANTHAPURAM.

(ADDL R3 TO R6 ARE IMPLEADED AS PER ORDER IN I.A.
NO.16509/66 DATED 27.11.2006)

BY ADV. SRI.GEORGE POONTHOTTAM
BY G.P. MOHEMMED ANSAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPPY OF TAX RECEIPT DATED 10.1.91

EXT.P2: COPY OF POSSESSION CERTIFICATE DATED 11.1.91

EXT.P3: COPY OF THE LOCATION CERTIFICATE DATED 14.1.91

EXT.P4: COPY OF ENCUMBRANCE CERTIFICATE DATED 15.3.1993

EXT.P5: COPY OF THE PHOTOGRAPHS OF DEMOLITION OF COMPOUND WALL AND METALLING WORK DONE BY THE RESPONDENT.

EXT.P6: COPY OF THE COMPLAINT DATED 24.6.2006

EXT.P7; COPY OF THE OIRDER OF THE 2ND RESPONDENT DATED 11TH OCTOBER 2006

RESPONDENTS EXHIBITS:

ANNEXURE R1(A): PHOTOSTATE COPY OF THE PHOTOGRAPH SHOWING ATHE WELL DEFINED BOUNARY WALL WITH THE RUBBLE FOUNDATION BUILT BY THE PETITIONER ON THE NORTHERN SIDE OF THE DISPUTED PATHWAY.

ANNEXURE R1 (B): PHOTOSTAT COPY OF THE PHOTOGRAPH SHOWING THE COCONUT TREES STANDING ON THE EDGE OF THE UNFINISHED BOUNDARY WALL.

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 28301 of 2006

Dated this 15th day of December, 2006

JUDGMENT

This writ petition has been filed by the petitioner for various reliefs including an order to restrain the first respondent from continuing with the tarring of the metalled way which passes through the southern side of the petitioner's property and for an order quashing Ext.P7.

2. Having regard to the decision which is being taken hereunder, I am of the view that the legality or otherwise of Ext.P7 need not be considered. I do not find any justification for restraining tarring work which has been undertaken by the Corporation. The metalling and tarring work of the road in question will continue. However, the request of the petitioner that he should be permitted to reconstruct the old compound wall on the existing foundation appears to be reasonable. Under these circumstances, the writ petition will stand disposed of with the following directions:

i). The Corporation is permitted to go ahead with the metalling and taring of the road in question. The petitioner is

directed to file an application before the Corporation for permission to reconstruct the compound wall on the foundation which exists and upon receiving that application the Corporation will consider the same and issue necessary permission to the petitioner without delaying the matter unnecessarily.

ii). The petitioner will submit an application before the Corporation within three days of receiving a copy of this judgment. The Corporation will take a decision on the application as directed above within another seven days of receiving that application.

PIUS C.KURIAKOSE
Judge

dpk